

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20284 of 2007(M)

ID.19/2002 of LABOUR COURT, KOZHIKODE

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PETITIONER:

THE HOSPITAL DEVELOPMENT SOCIETY,
MEDICAL COLLEGE HOSPITAL, KOZHIKODE-673 008,
REPRESENTED BY ITS SECRETARY, THE SUPERINTENDENT.

BY ADV. SRI.M.RAMESH CHANDER
SRI.P.RAGHUNATHAN

RESPONDENTS:

1. THE LABOUR COURT,
CALICUT.
2. DEPUTY TAHSILDAR, (REV. RECOVERY),
KOZHIKODE.
3. A.APPUTTY, S/O. PERACHUTTY,
KODALI P.O., G.A.COLLEGE, KOZHIKODE-673 014.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 20284 OF 2007

DATED THIS THE 5th DAY OF JULY, 2007

JUDGMENT

The petitioner is a hospital development Society. The 3rd respondent raised an industrial dispute alleging denial of employment, which resulted in Ext.P3 award dated 15.7.04. Thereafter for monetary claims as per the award, the 3rd respondent filed an application under Section 33C(2) of the Industrial Disputes Act before the Labour Court. The petitioner contested the same and suffered Ext.P6 order dated 19.10.05 whereby the petitioner was directed to pay an amount of Rs.87,550/- with 6% interest to the 3rd respondent. By Ext.P6, the authorities under the Revenue Recovery Act initiated proceedings under the said Act for recovery of the amount for payment to the 3rd respondent. The petitioner is challenging Exts.P3, P6 and P7. The contention of the petitioner is that by Ext.P2 judgment this Court has already held that persons like the 3rd respondent do not have claim to continue beyond the age of 60 years and since the 3rd respondent has already passed the age of 60 years, he is not entitled to the reliefs granted by Exts.P3 and P6.

2. Despite the legal position as declared by Ext.P2 judgment,

I do not think that the petitioner can at this point of time challenge Exts.P3 and P6. Ext.P3 is dated 15.07.2004. Although the petitioner submits that he has filed an application to set aside the ex parte award, nothing has been produced before me to show that the petitioner has taken the same to its logical conclusion and knowing fully well about Ext.P3 award, the petitioner contested the claim petition under Section 33C(2) and suffered Ext.P6 judgment dated 19.10.05. Even then, the petitioner did not challenge either Ext.P3 or Ext.P6 within a reasonable time. It is only when Ext.P7 Revenue Recovery notice dated 28.5.07 was served on the petitioner that the petitioner was woke up. I am afraid that such a challenge cannot be countenanced at this distance of time. Rightly or wrongly there is an award and order against the petitioner, which the petitioner has not chosen to challenge within any reasonable time. The petitioner does not also have any plausible explanation for the long delay in challenging Exts.P3 and P6. Therefore the petitioner is guilty of unexplained delay and laches. In the above circumstances, I am not inclined to exercise my discretionary jurisdiction under Article 226 of the Constitution of India in favour of the petitioner. However this would not prevent the petitioner from taking contentions based on Ext.P2 judgment in other similar cases.

Accordingly, the writ petition is dismissed.

S. SIRI JAGAN, JUDGE

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